

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.3867 of 1997

with

CIVIL APPLICATION No.1277 of 1998

with

CIVIL APPLICATION No.5388 of 1997

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For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

SUNANDABEN VISHWAVIHARI DURKAL

Versus

GUJARAT MIDDLE CLASS CO OP HOUSING SOCIETY LTD

Appearance:

MR J.A. Shah for Mr.HARIN P RAVAL for Petitioner

NOTICE SERVED BY DS for Respondents nos.1 to 3.

MR A.J. Patel for Mr. MUKESH R SHAH for Respondent No. 4

CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 12/08/98

COMMON ORAL JUDGEMENT :

Heard Shri J.A. Shah, learned advocate for Shri Harin P. Raval, learned advocate for the petitioner; and Shri A.J. Patel, learned advocate for Shri Mukesh R.

Shah, learned advocate for respondent no.4. Other respondents are served.

2. This petition arises out of a proceeding between the parties, which was pending at relevant time before the Registrars' Nominee under the Gujarat Cooperative Societies Act, 1951, being Arbitration Suit No.2197 of 1996. During pendency of that proceeding certain interim orders were sought. They were granted neither by the Nominee nor by the Tribunal. Being aggrieved by those orders, this petition has been filed.

3. When the matter came before this Court (Coram : R.M. Doshit, J.) on 16.5.1997, she issued rule with ad interim order in terms of prayer clause 31(D) of the petition. Prayer clause 31(D) restrained respondent no.4 from making any construction on suit plot bearing no.T 7/A in any manner whatsoever. It further restrained respondent no.4 from changing the status of the property in any manner whatsoever. Thereafter, the matter reached R.K. Abichandani, J. on 30.7.1997, when he was of the view that it would be desirable that the Registrar's Nominee disposes of the main suit expeditiously. The learned Judge continued the interim relief until further orders.

4. Subsequently, the matter came up before me on 15.6.1998. Having recorded the above developments and having also noted that in spite of earlier directions this suit was not being disposed of, the Nominee was once again directed by me to dispose of the main matter preferably by 30.6.1998.

5. Shri A.J. Patel appearing for respondent no.4 informs me that the suit has been disposed of by order of dismissal dated 4.8.1998. Shri Patel has shown me a photo copy of the judgment and order passed by the learned Nominee. In view of the main suit itself having been dismissed, none of the interim applications therein survive any longer. It is on those applications that the petitioner has sought interim relief, which was not granted by the Nominee, nor was it granted by the Tribunal, but it was granted by this Court (Coram : R.M. Doshit, J.), on 16.5.1997 and it was continued in the meanwhile.

6. In view of the developments stated above, there is no reason to keep the petition pending any further. Shri Shah appearing for the petitioner states that the petitioner would like to challenge the order passed in the suit by filing an appeal to the appropriate

authority. The only request he makes is that the injunction granted by this Court be continued for the period of one week. Shri Patel, learned counsel for respondent no.4 opposes this request.

7. In the circumstances narrated above, there is no reason to keep this petition pending. Dismissed accordingly. Rule is discharged with no order as to costs.

8. Inasmuch as the ad interim order granted by this Court (Coram: R.M. Doshit, J.) on 16.5.1997 has been continued for over a year or so, in my view it would be proper to accept the request made by Shri Shah. Accordingly, the ad interim order granted by this Court will continue till 20.8.1998. The above extension of ad interim order is being made so that no prejudice is caused to the petitioner.

9. The appellate court will decide the grant of interim relief entirely on merits of the case, on the merits of the judgment which will be before him, and without being influenced by the fact that this interim relief is running in the meanwhile.

10. In view of the main petition having been disposed of, Civil Applications Nos.5388 of 1997 and 1277 of 1998, do not survive. They stand disposed of.

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